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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 v.

9 MICHAEL N. LEIGHTON,

10 Defendant.

CR17-13 TSZ

ORDER

11 THIS MATTER comes before the Court on Defendant's Motion for Judgment of
12 Acquittal and/or New Trial, docket no. 98 (the "Motion"). Having reviewed all papers
13 filed in support of, and in opposition to, the Motion, the Court enters the following Order.

14 The parties are well versed in the facts and background of this action. Federal
15 Rule of Criminal Procedure 29(a) governs Defendant's request for a judgment of
16 acquittal. That rule provides that "the court on the defendant's motion must enter a
17 judgment of acquittal of any offense for which the evidence is insufficient to sustain a
18 conviction." The Court must first construe the evidence in a light most favorable to the
19 government and then determine whether any rational trier of fact could have found the
20 essential elements of the crime beyond a reasonable doubt. *United States v. H.B.*, 695
21 F.3d 931, 935 (9th Cir. 2012) (quoting *United States v. Shetler*, 665 F.3d 1150, 1163 (9th
22 Cir. 2011)). In so viewing the evidence, the Court may not absolve the fact finders' role
23 by assessing how it might have resolved any conflicts, drawn inferences, or considered

1 the evidence at trial. *Id.* (quoting *United States v. Nevils*, 598 F.3d 1158, 1164 (9th Cir.
2 2010) (en banc)). Federal Rule of Criminal Procedure 33 governs Defendant's request
3 for a new trial, and directs that "[u]pon the defendant's motion, the court may vacate any
4 judgment and grant a new trial if the interest of justice so requires."

5 Here, the Court finds that the jury was presented with sufficient evidence of
6 federal supervision and control. The Court properly instructed the jury on this issue and
7 the jury concluded that the evidence established federal supervision and control. When
8 viewed in the light most favorable to the government, any rational trier of fact could have
9 found the essential elements of the crime beyond a reasonable doubt.¹ Likewise, the
10 Court finds that the interest of justice does not require the Court to vacate its judgment or
11 grant a new trial.

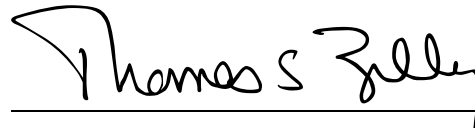
12 For the foregoing reasons, the Court ORDERS:

13 (1) Defendant's Motion is DENIED.

14 (2) The Clerk is directed to send a copy of this Order to all counsel of record.

15 IT IS SO ORDERED.

16 Dated this 17th day of January, 2018.

17 

18 Thomas S. Zilly
19 United States District Judge

20 ¹ Defendant's argument that the jury rendered a single inconsistent verdict is insufficient to overturn a
21 criminal conviction. "[T]he return of inconsistent jury verdicts is not a basis upon which a criminal
22 defendant may challenge his conviction." *United States v. Lee*, 698 Fed. Appx. 876, 877 (9th Cir. 2017)
23 (citing *Dunn v. United States*, 284 U.S. 390 (1932)). "Any concern that the jury may have reached an
irrational or unsupported verdict is obviated by the protection of sufficiency-of-the-evidence review." *Id.*
Having concluded that the jury was presented with sufficient evidence to find Defendant guilty on four of
the five wire fraud counts, the Court need not resolve any inconsistency between those counts and Count 4.